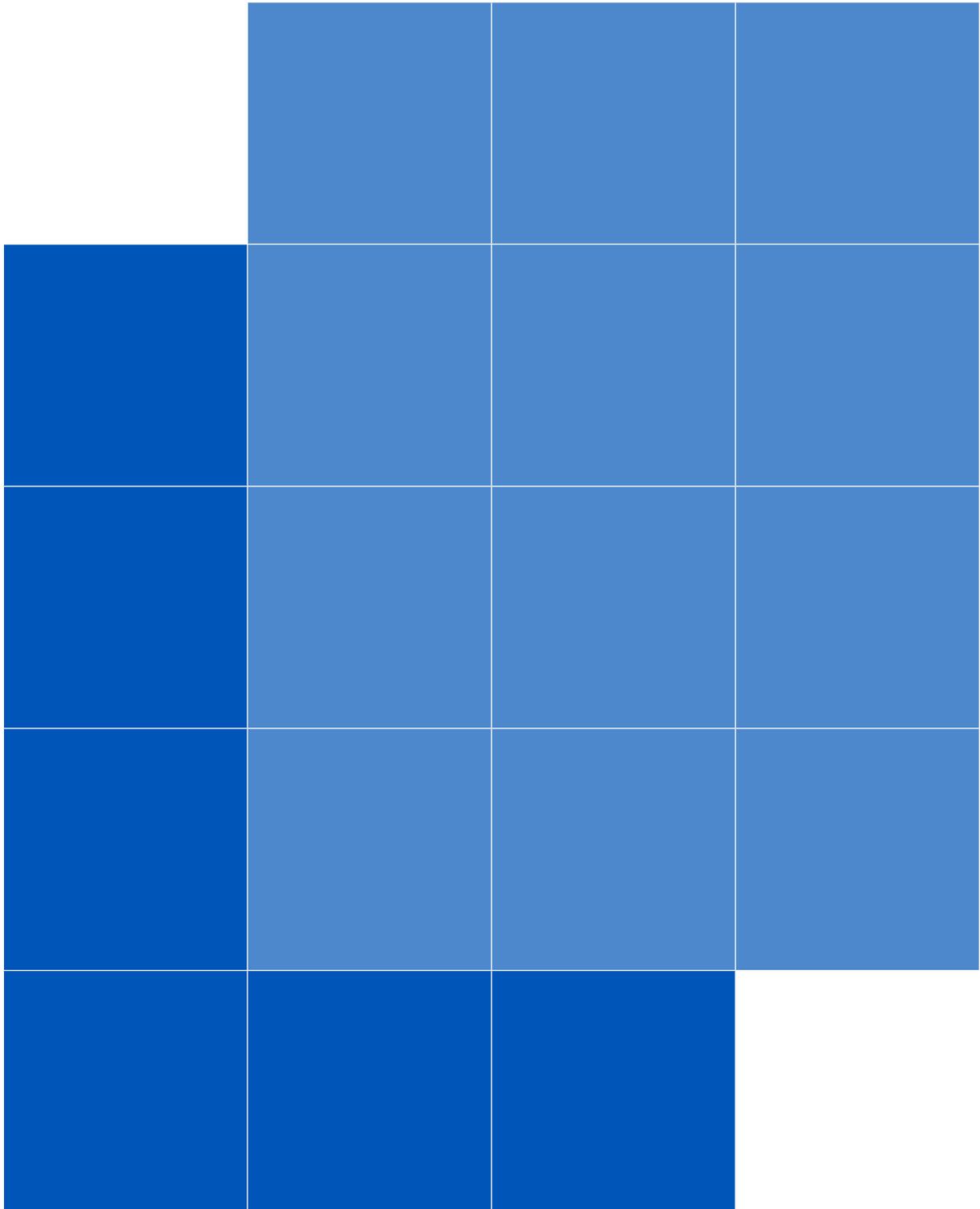




Ministry of  
**JUSTICE**



Legal Aid  
Agency



Legal Aid Agency  
**Framework Document**

Legal Aid Agency  
Framework Document



# Contents

1	Introduction	4
2	Aims and objectives	5
3	Roles, responsibilities and governance	6
4	Accountability to Parliament	11
5	Finance, performance and reports	12
6	Legal Aid Agency staff	16
7	Audit and assurance	17
8	Provision of corporate services	18
Annex	Compliance with government-wide corporate guidance and instructions	22

# 1 Introduction

- 1.1 The Legal Aid Agency is an executive agency of the Ministry of Justice (the Department), established in 2013.
- 1.2 The Legal Aid Agency was set up in order to support the strategic aims of Ministers and the Department. Its main aim is to commission and administer legal aid services in England and Wales.
- 1.3 This Framework Document sets out the arrangements for the governance, accountability, financing, staffing and operation of the Legal Aid Agency, agreed between the Permanent Secretary and the Chief Executive of the Legal Aid Agency with the approval of the Lord Chancellor.
- 1.4 Copies of this Framework Document and any subsequent amendments will be placed in the libraries of both Houses of Parliament. Copies will be available on the Department's website.
- 1.5 This Framework Document will be reviewed formally every three years under arrangements agreed between the Permanent Secretary and the Chief Executive and approved by the Lord Chancellor. It may, however, be reviewed at any other time if they so wish.
- 1.6 Amendments to this Framework Document must be agreed by the Permanent Secretary and the Chief Executive and approved by the Lord Chancellor or delegate. Major amendments must be agreed by Her Majesty's Treasury, as required.
- 1.7 Any departure from the provision of the Framework Document must be agreed in writing on a case-by-case basis between the Permanent Secretary and Chief Executive, if appropriate, with the approval of the Lord Chancellor or delegate, and minister at Her Majesty's Treasury.
- 1.8 Any questions concerning the interpretation of this Framework Document will be resolved by agreement between the Permanent Secretary and the Chief Executive.

## 2 Aims and objectives

- 2.1 The Legal Aid Agency's role is to commission and administer legal aid services in England and Wales, taking account of the relevant provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the policy and strategy set by ministers and the Department.
- 2.2 The Legal Aid Agency's purpose and objectives, as agreed by the Lord Chancellor are set out in the Legal Aid Agency Business Plan. The Business Plan is available online.

## 3 Roles, responsibilities and governance

### Ministerial Responsibilities

**3.1** The Lord Chancellor will account for the Legal Aid Agency's business in Parliament and will determine policy on the availability of legal aid.

### The Permanent Secretary

**3.2** The Permanent Secretary is the Departmental Sponsor of the Legal Aid Agency.

**3.3** The Permanent Secretary advises the Lord Chancellor on how well the Legal Aid Agency is performing.

**3.4** The Permanent Secretary's responsibilities include:

- endorsing Legal Aid Agency Corporate and Business Plans before they are submitted to the Lord Chancellor, and
- ensuring the Legal Aid Agency conforms to departmental policy and has the delegations and authorities necessary for effective delivery and continuous improvement.

**3.5** The Permanent Secretary is also the Principal Accounting Officer (PAO) of the Department. The PAO is accountable to Parliament for the public funds delegated to the Chief Executive of the Legal Aid Agency. The PAO also advises the Lord Chancellor on:

- how well the Legal Aid Agency is achieving its strategic objectives and whether it is delivering value for money
- how the Legal Aid Agency's strategic aims and objectives contribute to the Department's wider strategy and priorities, and
- an appropriate budget for the Legal Aid Agency in the light of Department's overall public expenditure priorities.

### The Chief Executive

**3.6** The Chief Executive is appointed by the Permanent Secretary of the Department, in consultation with the Lord Chancellor. Remuneration will be agreed in accordance with the performance and reward arrangements for members of the Senior Civil Service.

**3.7** The Chief Executive is accountable to the Permanent Secretary for his or her personal performance and through the Permanent Secretary to the Lord Chancellor for the performance of the Legal Aid Agency. The Chief Executive will sit on the Department's Executive Management Committee of the Board.

**3.8** The Chief Executive is responsible for the leadership of the Legal Aid Agency and its day-to-day operations and management.

**3.9** The Chief Executive is responsible for effective leadership of the Legal Aid Agency, ensuring robust planning and sound financial management. These responsibilities include:

- efficient and cost-effective management of the Legal Aid Agency so as to ensure it achieves its outcomes
- effective leadership to the staff of the Legal Aid Agency
- preparing the Legal Aid Agency's strategy and Business Plans, ensuring that they reflect departmental policy and strategy
- developing structures which assign responsibilities and accountabilities in such a way that the Legal Aid Agency can effectively deliver its separate commissioning and delivery responsibilities within the delegated allocation

- ensuring robust financial planning and a full understanding of the costs of the Legal Aid Agency's activities
- ensuring that the Legal Aid Agency and the providers it commissions comply fully with all relevant legislative and corporate governance requirements, and
- supporting the Director of Legal Aid Casework's role where these are held by separate individuals, in making determinations in individual legal aid cases. In supporting the Director of Legal Aid Casework in this role, the Chief Executive must ensure that he or she does not compromise the independence of the Director in decision making in an individual case.

**3.10** The Chief Executive will advise the Lord Chancellor through the Permanent Secretary on matters relating to the operational delivery of ministerial and departmental policies on legal aid operations. The Chief Executive will retain a standing right of access to the relevant Minister. Any urgent matters or difficulties arising in the relationships or responsibilities between the Department and the Legal Aid Agency will be escalated, as appropriate, for discussion between the Permanent Secretary and the Chief Executive.

**3.11** If the Chief Executive does not also hold the office of the Director of Legal Aid Casework (see paragraph 3.19 below), the Chief Executive is responsible for supporting the Director of Legal Aid Casework's role in making determinations in individual legal aid cases. In supporting the Director of Legal Aid Casework in this role, the Chief Executive must ensure that he or she does not compromise the independence of the Director in decision making in an individual case.

### **The Chief Executive as Accounting Officer**

**3.12** The Chief Executive is designated as the Legal Aid Agency Accounting Officer (AO) by the PAO of the Department, with responsibilities as set out in Chapter 3 of Managing Public Money, and is accountable to the PAO and to Parliament for those responsibilities.

**3.13** In the event that the Legal Aid Agency decides to delegate activities within its remit to external providers, whether they be public sector or private providers, the AO shall ensure that such delegation is subject to a robust governance regime, evidenced in a statement of accountability.

**3.14** In providing the Statement of Accountability the AO shall ensure that any such regime is supported by a process of regular review and monitoring, to ensure that governance arrangements are current and fit for purpose.

### **Delegation of duties**

**3.15** The Chief Executive may delegate the day-to-day administration of his or her AO responsibilities to other employees in the Legal Aid Agency and/or other public or private organisations. However, he or she shall not assign absolutely to any other person any of the responsibilities set out in this document.

### **Responsibilities for accounting to Parliament**

**3.16** As AO, the Chief Executive's responsibilities to Parliament include:

- signing the accounts and ensuring they are prepared according to the requirements set out in this document
- signing a Statement of Accounting Officer's responsibilities and a Governance Statement for inclusion in the Legal Aid Agency annual report and accounts

- ensuring that effective procedures for handling complaints about the Legal Aid Agency are established and made widely known within the organisation
- acting in accordance with the terms of this document, Managing Public Money and other instructions and guidance issued from time to time by the Department, Her Majesty's Treasury and the Cabinet Office, and
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee (PAC) on the Legal Aid Agency's stewardship of public funds.

### Responsibilities to the Department

- 3.17** The Chief Executive's particular responsibilities include informing and agreeing with the Department regarding:
- progress in helping to achieve its policy objectives and in demonstrating how resources are being used to achieve those objectives, and
  - ensuring that recommendations addressed to the Legal Aid Agency in reports from the PAC or NAO, and recommendations made to the Legal Aid Agency in Management Letters are attached to the Audit Completion Report from its external auditors, are responded to, addressed and acted upon in a timely manner to ensure that they are cleared promptly. The Department will work with the Legal Aid Agency to support it in this task.
- 3.18** If any responsibilities are delegated outside of the Legal Aid Agency to another public or private organisation, they will be so delegated under a robust, monitored and documented system of governance that complies with the principles set out in the Departmental Accountability System Statement, which can be found in the Department's Governance Statement.

### The Director of Legal Aid Casework

- 3.19** Determinations in individual legal aid cases will be made by a statutory office holder, a civil servant designated by the Lord Chancellor as the Director of Legal Aid Casework under section 4 of the Legal Aid Sentencing and Punishment of Offenders (LASPO) Act 2012. Under section 4(3) of the LASPO Act 2012 the Director must comply with the directions given by the Lord Chancellor about the carrying out of the Director's function under the Act, and must have regard to guidance given by the Lord Chancellor about the carrying out of those functions. However, under section 4(4) of the LASPO Act 2012 the Lord Chancellor must not give a direction or guidance about the carrying out of the Director's functions in relation to an individual legal aid application. In addition the Lord Chancellor must ensure that the Director acts independently of the Lord Chancellor when applying a direction or guidance to an individual case.
- 3.20** The civil servant designated as the Director of Legal Aid Casework may also be the Chief Executive of the Legal Aid Agency. If both roles are held by the same person, different accountability and reporting arrangements exist for the two roles.
- 3.21** The Director will receive a letter from the Lord Chancellor confirming his or her designation. The letter will set out the requirements of the office and the period of appointment.
- 3.22** The Director is responsible for determining if an individual qualifies for legal aid. The Director may be performance managed against delivering his/her functions, including

compliance with directions and guidance issued by the Lord Chancellor, but otherwise not for his or her decision making in individual cases. The Director may also be performance managed against any parts of the Legal Aid Agency's Business Plan that he or she is responsible for delivering.

- 3.23** The Director may delegate his or her functions to civil servants. When civil servants are carrying out functions on behalf of the Director, their actions are treated as those of the Director and the provisions of sections 4(3) and 4(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 extend to them. The performance management of civil servants acting on behalf of the Director shall be undertaken in such a way as to ensure the Director's independence in decision making is protected.
- 3.24** The Director is required by section 7 of the Legal Aid Sentencing Punishment Offenders Act 2012 to produce a Director of Legal Aid Casework annual report as soon as reasonably practicable after the end of each financial year, stating how he or she has carried out the functions of the office in the financial year. The Director must send the report to the Lord Chancellor, who is responsible for laying the report before Parliament and arranging for it to be published. The Legal Aid Agency will support the Director in the production of this report.
- 3.25** In addition to the Director of Legal Aid Casework's annual report, the Director will provide information to the Lord Chancellor as appropriate on his or her performance of the role, including any themes, trends or lessons learnt that

the Director has noted whilst carrying out the functions of his or her office. The Director shall meet with the Lord Chancellor at least annually to discuss the carrying out of the functions of the office.

- 3.26** The Director, and civil servants performing a delegated function on his or her behalf, shall ensure appropriate handling and assurance arrangements are in place in relation to information provided to the Director or Legal Aid Agency in connection with the case of an individual seeking or receiving legal aid (see paras 8.35–8.37 below).

#### The Legal Aid Agency Board

- 3.27** The Chief Executive will establish and chair the Legal Aid Agency Board. The Board will provide support and advice to the Chief Executive regarding the strategic direction of the Legal Aid Agency. The day-to-day management will be the responsibility of an Executive Management Team and the Board will receive reports as appropriate.
- 3.28** In addition to the Chief Executive, the Legal Aid Agency Finance Director will be a member of the Board.
- 3.29** If the office of Director of Legal Aid Casework is not held by the Chief Executive, the Director shall be a member of the Board.
- 3.30** There will be a separate document detailing the Legal Aid Agency's governance. This document will set out how the organisation will fulfil its role set out in paragraph 2.1. It will include the Board's Terms of Reference and membership, arrangements for the appointment of Non-Executive Board Members, and delegation limits. The governance arrangements will be agreed with the Permanent Secretary.

**3.31** The Non-Executive Board Members will be appointed by the Chief Executive, following an open and transparent process run in accordance with principles of the Commissioner for Public Appointments. The Non-Executive Board Members are accountable to the Chief Executive for their conduct as Board members.

**3.32** The Board's responsibilities will be referenced in the Legal Aid Agency's Governance Document.

### **Relationship with the Department and other bodies**

**3.33** The Department develops strategic policies under the direction of Ministers. Those developing policy in the Department will consult the Legal Aid Agency Chief Executive on the operational impact of strategic policy changes that may affect the operation and delivery of legal aid services.

**3.34** The Legal Aid Agency will work collaboratively and openly with all bodies, including bodies representing the devolved administration and stakeholders of Wales and other government departments that have an interest in its work and providers of legal aid services.

**3.35** The Legal Aid Agency will report on progress against agreed objectives to the Departmental Board which is chaired by the Lord Chancellor.

**3.36** The Legal Aid Agency will comply with best practice guidance and relevant reports of other government departments, the National Audit Office and the Wales Audit Office in its conduct of commissioning and competition activities. This is to ensure transparent commissioning decisions, competitive neutrality as between providers from all sectors and the even-handed application of comparative cost and performance benchmarks.

## 4 Accountability to Parliament

### Parliamentary Select Committees

- 4.1** The Permanent Secretary and the Chief Executive or their delegates may be asked to appear before the Public Accounts Committee concerning their respective AO responsibilities.
- 4.2** Invitations received from other Parliamentary Committees relating to the Legal Aid Agency will be considered by the Chief Executive who will consult and advise the Permanent Secretary as appropriate.
- 4.3** Invitations received from Parliamentary Committees related to the office of the Director of Legal Aid Casework will be considered by the Director and the Chief Executive, who will advise the Lord Chancellor and Permanent Secretary as appropriate.

### Parliamentary and Health Service Ombudsman

- 4.4** The Legal Aid Agency is subject to the jurisdiction of the Parliamentary and Health Service Ombudsman.
- 4.5** The Permanent Secretary is the Principal Officer of the Department for the purposes of Parliamentary and Health Service Ombudsman referrals, but will normally delegate responsibility for handling any matters concerning delivery of legal aid services to the Chief Executive. The Chief Executive should ensure appropriate learning and feedback mechanisms are in place and that difficult or contentious cases are brought to the attention of the Department at an appropriate stage.
- 4.6** The Chief Executive will ensure that the Legal Aid Agency operates in accordance with a published complaints procedure that is clear and accessible to all users.

- 4.7** The Director of Legal Aid Casework is subject to the jurisdiction of the Parliamentary and Health Service Ombudsman.

### Parliamentary Questions and Parliamentary Correspondence

- 4.8** The Chief Executive will advise ministers as required in respect of Parliamentary Questions and Parliamentary Correspondence addressed to Ministers on operational legal aid matters.
- 4.9** If the question or correspondence relates to matters solely within the responsibility of the Chief Executive, it will be referred to the Chief Executive.
- 4.10** The Chief Executive and other Legal Aid Agency staff may also respond directly to correspondence addressed to the Legal Aid Agency from a Member of Parliament or Peer on matters concerning operational delivery of legal aid services.
- 4.11** The Director of Legal Aid Casework will advise Ministers as required, and to the extent possible without compromising the independence of the Director in relation to individual cases, in respect of Parliamentary Questions and Parliamentary Correspondence addressed to Ministers on the carrying out of the functions of the Director's office.
- 4.12** The Director of Legal Aid Casework or a member of the Legal Aid Agency's staff may respond directly to correspondence addressed to the Director from a Member of Parliament or Peer on matters concerning the carrying out of the functions of the Director's office.

## 5 Finance, performance and reports

### The Department's requirements

- 5.1** Unless otherwise agreed by the Department and, as necessary, Her Majesty's Treasury the Legal Aid Agency shall follow the principles, rules, guidance and advice in Managing Public Money, referring any difficulties or potential bids for exceptions to the Corporate Finance Team in the Department in the first instance.
- 5.2** In particular, the Legal Aid Agency shall comply with the requirements placed on the Department by Her Majesty's Treasury and Cabinet Office Spending Controls as though they were addressed directly to it, unless there is an overriding policy reason for not doing so.

### Budgeting procedures

- 5.3** Each year, in light of decisions by the Department on the updated annual Business Plan, the Department will send to the Legal Aid Agency:
- a formal statement of the annual budgetary provision allocated by the Department in light of competing priorities across the Department and of any forecast income approved by Department. This budget allocation will set out the Legal Aid Agency's net expenditure limits within:
    - Resource Departmental Expenditure Limits (DEL) (split by administration and programme and legal aid)
    - Capital DEL
    - Resource Annually Managed Expenditure (AME) and Capital AME
    - Cash: a limit will also be set on cash spend, and
    - a statement of any planned change in policies affecting the Legal Aid Agency.

- 5.4** The approved annual Business Plan will take account both of approved funding provision and any forecast receipts, and will include a budget of estimated payments and receipts together with a profile of expected expenditure and of draw-down of any departmental funding and/or other income over the year. These elements form part of the approved Business Plan for the year in question.

### Funding Allocation to the Legal Aid Agency

- 5.5** The Department aim to provide a proposed and indicative annual budget allocation to the Legal Aid Agency in line with agreed outcomes and levels of service at least three months prior to the start of the year. The Department will also provide indicative budget allocations for future years to inform forward planning within a reasonable period prior to the end of the financial year.
- 5.6** Once the budget has been approved by the Department and subject to any restrictions imposed by statute and the responsible Minister's instructions, the Legal Aid Agency shall have authority to incur expenditure approved in the budget without further reference to the Department, on the following conditions:
- The Legal Aid Agency shall comply with the budgetary delegations. These delegations shall not be altered without the prior agreement of the Department.
  - The Legal Aid Agency shall comply with Managing Public Money regarding novel, or contentious payments or repercussive proposals.
  - Inclusion of any planned and approved expenditure in the budget shall not remove the need to seek formal departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed.

- The Legal Aid Agency shall provide the Department with such information about its operations, performance, individual projects or other expenditure as the Department may reasonably require.
- 5.7 The Permanent Secretary will, through consultation, reach agreement with the Chief Executive in respect of the allocation and on any significant in-year adjustments to the Legal Aid Agency allocation.
- 5.8 There will be, as the Department reasonably requires, reviews on in-year spending and forecasting held between the Chief Executive of the Legal Aid Agency and the Department's Director General, Finance and Corporate Services. This will include reporting on the budgetary impacts of the Director of Legal Aid Casework's decision making.
- 5.9 The Chief Executive may put forward proposals to the Director General, Finance and Corporate Services to seek additional funding above the financial allocation in exceptional circumstances.

### Financial Management

- 5.10 The Legal Aid Agency has responsibility for financial and management accounting and will provide information on its expenditure and its income to the Department and to Her Majesty's Treasury at the following intervals:
  - Management information shall be provided on a monthly basis to the Department's management accounts team, within a timeframe as the Department reasonably requires.
  - Financial Accounts information shall be provided on a quarterly basis to the schedule set out in the Finance and Commercial Instruction issued by the Department (usually six weeks after the accounts close for the quarter).
- 5.11 The Legal Aid Agency will also share information with other Government Departments where appropriate.
- 5.12 The Legal Aid Agency Finance and Performance Director will comply with the duties and responsibilities set out in Annex 4.1 of Managing Public Money.
- 5.13 The Department's Finance Director and the Legal Aid Agency Finance and Performance Director will work closely to ensure that there is a strong financial discipline at all levels. The Legal Aid Agency Finance and Performance Director will be a part of the broader Departmental Finance Director community and will have a responsibility for maintaining and developing standards of financial management within the Legal Aid Agency in line with the Department's Finance Improvement Strategy.

### Financial Delegations

- 5.14 The PAO of the Department will delegate responsibility for all financial matters relating to the delivery of legal aid services in writing to the Chief Executive.
- 5.15 The Legal Aid Agency will operate within the limits confirmed in the written delegations, and authorities for spend which will be reviewed at least annually. The Legal Aid Agency's delegated thresholds and Financial Transaction Limits are set out in the prevailing Budget Variation Letter and its annexes. The Legal Aid Agency shall obtain the Department's prior written approval before exceeding or varying any of the delegations or Financial Transaction Limits.
- 5.16 The Chief Executive is accountable for expenditure incurred within the Legal Aid Agency in delivering its services and for income it receives.

- 5.17** The Chief Executive, as the Agency's AO, has the right to approve all items of expenditure, use receipts (subject to departmental guidance), write off losses and make special payments which are within the provision of this Framework Document and are consistent with the Legal Aid Agency strategic and Business Plans. This is subject to the financial delegations, controls and approval processes set by the Department, Her Majesty's Treasury and the Cabinet Office.
- 5.18** The Chief Executive has responsibility for ensuring that the Legal Aid Agency can account for its assets.
- 5.19** Legal Aid Agency change programmes will have effective governance arrangements agreed by the Chief Executive and the Department, through which expenditure on those programmes is managed.

### Capital

- 5.20** If any capital expenditure is needed, this must be agreed in advance and be included as part of the Department's capital allocation included in its funding allocation. The approval of the Department's Finance Management Committee will be sought for any requests for capital spend above the delegation limit, based on a submitted business case for this spend.

### Cash holding

- 5.21** The Legal Aid Agency will use the services of the Government Banking Service (GBS). No more than one month's cash should be held in reserve or be available at year end. Provided that grant in aid paid into a GBS account is not swept into a commercial bank account to earn interest, it will not be considered as payment in advance for the purposes of the Legal Aid Agency's cash management performance, even if

it is received and held in advance of when it is required. The Department will carry out a check of the Legal Aid Agency's cash holding at the end of each financial year.

### General Accounting Rules

- 5.22** The Legal Aid Agency is subject to the rules and policies laid down by Her Majesty's Treasury in Managing Public Money, Consolidated Budgeting Guidance, the Corporate Governance Code, the Financial Reporting Manual and other accounting instructions that are issued regularly by the Department.
- 5.23** The Legal Aid Agency shall submit timely quarterly accounts to the Department, and comply with the Department's year-end accounts consolidation timetable.

### Transparency Framework

- 5.24** The Chief Executive will work with the Department and other government department officials to agree input and impact indicators, cost and the performance data for the Legal Aid Agency which will be made available to ensure principles of transparency are met.
- 5.25** The Chief Executive will put in place and maintain appropriate management systems that hold all providers accountable for delivering outcomes within agreed resources.

### Risk

- 5.26** The Legal Aid Agency will maintain a risk management process in accordance with the guidance in Her Majesty's Treasury Managing Public Money and Management of Risk – Principles and Concepts and other official guidance that may be issued from time to time, and consistent with the Department's risk management policy, escalating risks as necessary.

**5.27** The Legal Aid Agency will maintain robust contingency and business continuity plans and will review and test these on a regular basis.

#### **Business Plan, Annual Report and Accounts**

**5.28** The Legal Aid Agency plans will be set within the context of the wider Department corporate strategy and the Transparency Framework to deliver objectives and outcomes set by the Lord Chancellor. Reporting against Business Plans will be consistent with reporting in the rest of the Department.

**5.29** The Chief Executive is responsible for the development of the Legal Aid Agency's long term corporate planning and for ensuring that the Legal Aid Agency has integrated planning and performance arrangements in place.

**5.30** Within the strategic direction set by this plan, the detailed activities for the Legal Aid Agency will be published in an annual Business Plan. The plan will include:

- clear links with the Department's strategic priorities and corporate strategy
- the priorities and work programme for the year as derived from the Legal Aid Agency's corporate plans
- impact indicators against which the Department will assess the Legal Aid Agency performance, and
- the operating assumptions and budget on which the plan is based.

**5.31** The Corporate and Business Plans will be approved by the Lord Chancellor following endorsement by the Permanent Secretary.

**5.32** The Chief Executive will prepare the Annual Report and Accounts for the Legal Aid Agency, in accordance with the guidance

and accounting policy set out by the Cabinet Office and Her Majesty's Treasury, to a timetable agreed with the Department.

**5.33** The Legal Aid Agency Annual Report and Accounts will be submitted to the Lord Chancellor following endorsement by the Permanent Secretary and audit by the Comptroller and Auditor General. They will be consolidated into the Departmental Accounts.

**5.34** The Lord Chancellor will lay the Legal Aid Agency Annual Report and Accounts in the House of Commons.

## 6 Legal Aid Agency staff

- 6.1 The Department will set terms and conditions (including all issues to do with pay and remuneration) of employment and procedures which will apply to the Legal Aid Agency civil servants, other than Senior Civil Servant grades which will be determined by the Cabinet Office.
- 6.2 The Chief Executive will ensure that the Legal Aid Agency will operate in accordance with departmental corporate policies and processes that provide the Legal Aid Agency with an engaged, diverse and competent workforce that allows for the Legal Aid Agency to meet all relevant statutory obligations.
- 6.3 The Chief Executive is responsible for ensuring that Legal Aid Agency complies with the Department's Collective Engagement Framework in relation to consultation with the Trades Union Side.
- 6.4 Staff shall comply with the restrictions on disclosure of information set out at paragraphs 8.35–8.37.
- 6.5 The Department will be responsible for the management and administration of the residual Legal Services Commission pension scheme and for the ongoing funding requirement.

## 7 Audit and assurance

### Internal Audit

**7.1** The Chief Executive is responsible for making arrangements for the provision of internal audit services for the Legal Aid Agency in accordance with Government Internal Audit Standards and best practice set by Her Majesty's Treasury. Under the Departmental Operating Model this will be carried out by the Department as a shared service.

### The Audit Committee

**7.2** The Legal Aid Agency Board will appoint an Audit Committee as a sub-committee of the Board, in accordance with standards and best practice set by Her Majesty's Treasury, to support the Chief Executive as Legal Aid Agency AO and advise on the Legal Aid Agency's corporate governance and risk and control systems.

**7.3** The Audit Committee will be chaired by a Non-Executive Board Member, who should have recent and relevant financial experience.

**7.4** The Chair of the Legal Aid Agency Audit Committee will ensure that effective arrangements for communication with the Department's Audit Committee are maintained.

### External Audit

**7.5** The Comptroller and Auditor General audits the Legal Aid Agency expenditure and income, examines its regularity and propriety and certifies and reports on the Legal Aid Agency Statement of Accounts.

**7.6** The Comptroller and Auditor General sends copies of all management letters and correspondence relating to those letters to the Legal Aid Agency Finance and Performance Director, who draws issues of significance to the attention of the Legal Aid Agency Board. The Board will escalate issues of particular importance to the Department.

**7.7** The Comptroller and Auditor General has access to the Legal Aid Agency books and records under the National Audit Act 1983, for the purposes of carrying out examinations into the economy, efficiency and effectiveness with which the Legal Aid Agency has used its resources and discharged its functions.

## 8 Provision of corporate services

- 8.1** The Legal Aid Agency will work collaboratively with the Department's corporate functions to ensure effective delivery.
- 8.2** A number of support functions will be provided as a shared service across the Department reflecting the Departmental Operating Model.
- 8.3** The operation of these services will be supported by a Memorandum of Understanding that sets out shared expectations of how the arrangements will work for efficient and effective delivery. Where expectations are not met, the Chief Executive and relevant Directors in the Department will discuss and agree action, including the potential to make use of other service delivery models.
- 8.4** Where there is a significant change to the way services are delivered or provided then the Lord Chancellor and the Chief Executive will be consulted, and the Framework Document will be updated.
- 8.8** Within this wider strategy, the Chief Executive will be responsible for communications issued to Legal Aid Agency staff, providers and stakeholders.
- 8.9** Media requirements and news handling will be managed by the Department's Press Office, with appropriate delegations to the Chief Executive in line with devolved responsibility. In particular, any press enquiries relating to matters solely within the responsibility of the Chief Executive, will be referred to the Chief Executive for a statement.
- 8.10** Legal Aid Agency branding will be consistent and integrated with the Department's guidelines.
- 8.11** The Legal Aid Agency and the Department will ensure that appropriate arrangements are put in place to support any press handling requirements of the Director of Legal Aid Casework. These arrangements will take account of the independence of the Director in relation to decision making in individual cases and the requirement to protect information provided to the Legal Aid Agency or Director in connection with the case of an individual seeking or receiving legal aid (see paras 8.34–8.36).

### Estates

- 8.5** The Legal Aid Agency will be responsible for developing its Estates requirements and for prioritising applications for investment.
- 8.6** The Department, via its Estates Directorate, will provide a full Estates function to the Legal Aid Agency across its entire Estate (including strategic planning, project and programme management, sustainability, estates financial services and facilities).

### Communications

- 8.7** The Department will set its wider communication strategy and the Legal Aid Agency will formulate its communications strategy in line with this.

### Finance

- 8.12** Finance policy and procedures and a range of transactional finance services (see Shared Services, 8.18–8.20) will be provided by the Department.
- 8.13** The finance function within the Legal Aid Agency will deliver financial control, long-term and in-year business and financial planning and management.
- 8.14** The Legal Aid Agency will work with the Department to agree the recharging policy

of the Corporate Services functions each year where this is not defined by a strategy already in existence within the Department.

### Human Resources

- 8.15** The Department will set the strategic Human Resources (HR) direction for the Legal Aid Agency, and determine the HR Business Partnering and commissioning of services from the HR Expert Centre in line with the HR Operating Model and Civil Service HR. This will include learning and development and HR policy.
- 8.16** All advice and guidance, resourcing and processing of HR transactions will be provided by the Department in accordance with requirements agreed between the Legal Aid Agency's Chief Executive, the Department's Group HR Director and Director of Shared Services. Any concerns about these services that cannot be resolved through normal governance can be escalated by the Legal Aid Agency Chief Executive to the Permanent Secretary.
- 8.17** The Legal Aid Agency will retain responsibility for agency workforce and talent planning, in line with the Department's guidelines and procedures. The Legal Aid Agency will also be responsible for the specification of any unique operational training needed by its staff.

### Shared Services

- 8.18** The Department will provide a range of services to support the Finance and HR functions through the Department's Shared Services. These services will be defined in a Service Level Agreement between the Legal Aid Agency and the Department's Shared Services. The Legal Aid Agency will retain some responsibility.

**8.19** The model for delivery of Finance and HR services will be agreed between the Department and Legal Aid Agency. The Legal Aid Agency will be represented on the shared services governance bodies. Full details of the Finance and HR service model, as defined by the Departmental Corporate Finance and Departmental Corporate HR function will be contained within the Service Level Agreement.

**8.20** Services will be charged for through arrangements referred to at 8.14.

### Information, Communication and Technology Services

- 8.21** Information, Communication and Technology (ICT) Service Management including Infrastructure, desktop and mobile computing as well as support for business applications, is provided to the Legal Aid Agency by the Department following the standard ICT Delivery Model and aligning with future ICT strategy and direction.
- 8.22** A retained ICT function will remain in the Legal Aid Agency as the intelligent customer identifying Legal Aid Agency ICT business strategy and requirements and providing internal customer service activity aligned with the Department's account management and ICT Delivery Model.
- 8.23** The Legal Aid Agency will participate in the Department's ICT planning activity producing Information Technology (IT) plans that align with the Department's future IT strategy and priorities, engaging with the account teams and programme and project delivery to achieve their objectives and agreeing arrangements for the common management and use of IT.

## Procurement

**8.24** The Legal Aid Agency will retain responsibility for the procurement, commissioning and contract management of all services delivering legal aid. The Legal Aid Agency will retain contract management of specified contracts as detailed in a Service Level Agreement.

**8.25** The Legal Aid Agency's procurement activity shall be consistent with Government and Departmental procurement guidelines and policies. The Legal Aid Agency shall provide information on procurement and commissioning to the Department's Procurement Directorate as requested.

**8.26** The Department's Procurement Directorate will be responsible for procurement policy and tenders and contract management for the Legal Aid Agency remaining (non legal aid) services, all goods contracts and tenders for specified contracts (as defined in the Service Level Agreement) as a shared service.

## Legal Services

**8.27** Legal services will be provided to the Legal Aid Agency via different models, dependent on the area. This approach recognises the different needs the Legal Aid Agency has as a result of its function in supporting the Director of Legal Aid Casework and requirements around decision making in individual legal aid applications.

**8.28** Lawyers advising the Director will be seconded to the Legal Aid Agency from the Department's Legal Directorate. Whilst seconded they will be co-located with the Legal Aid Agency and their performance management shall be undertaken in such a way as to ensure the Director's independence in decision making is protected.

**8.29** The Department's Legal Directorate will provide commercial legal services to the Legal Aid Agency.

**8.30** The Department and Legal Aid Agency may agree that some legal services shall be provided by the Treasury Solicitor's Department.

## Access

**8.31** The Department will have a right of access to all the Legal Aid Agency's records and personnel as required to discharge the obligations of the Department and the PAO and for any other purpose, including, for example, sponsorship audits and operational investigations.

## Security and information assurance

**8.32** The Legal Aid Agency is required to comply with Government and Department standards for the management of security and information risk, and report on its compliance as necessary.

## Freedom of Information and Data Protection

**8.33** The Legal Aid Agency will carry out its obligations under the Freedom of Information Act, the Data Protection Act and the Environmental Information Regulations, including ensuring requests are handled in line with agreed Departmental processes. The Legal Aid Agency will respond to requests on matters related to the operational delivery of legal aid. This will be carried out with assistance from Department's Data Access and Compliance Unit.

### **Protection of information that is provided to the Legal Aid Agency or Director of Legal Aid Casework in connection with the case of an individual seeking or receiving legal aid**

- 8.34** Section 34 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 places restrictions on the disclosure of information that is received by either the Legal Aid Agency or the Director of Legal Aid Casework in relation to legal aid applications. Section 35 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 sets out exemptions on the section 34 non-disclosure obligation.
- 8.35** Section 33 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 places restrictions on the disclosure of information about financial resources gained by the Legal Aid Agency or Director of Legal Aid Casework under section 22, in relation to legal aid.
- 8.36** In addition to the statutory non-disclosure requirements, further non-disclosure guidance has been established between the Legal Aid Agency and the Department, based on the Data Protection Act. This guidance prevents the inappropriate sharing of information that may include personal or sensitive personal data as defined by the Data Protection Act, such as legally privileged material that may have been submitted as part of an application for legal aid.
- 8.38** Complaints about the personal conduct of the Chief Executive and the Director of Legal Aid Casework will be considered by the Permanent Secretary. If the Permanent Secretary decides the complaint should be investigated, he will appoint an independent person to investigate the issues and make recommendations to him about the complaint resolution.
- 8.39** The Legal Aid Agency will manage any litigation arising from its operational activities, including decision making on individual cases. The Legal Aid Agency will keep Departmental lawyers advised, as appropriate, subject to information handling requirements (see para 8.33).
- 8.40** When settling claims and complaints against the Legal Aid Agency, the Legal Aid Agency shall inform the Department and, where necessary, Her Majesty's Treasury, and at all times apply the rules set out in Chapter 4 and Annex 4 of Managing Public Money before any such agreement is made.

### **Complaints and litigation**

- 8.37** Where complaints are received about the Legal Aid Agency or matters within the Legal Aid Agency's remit, (i.e. not about decisions by the Director in relation to individual cases), the Department will refer these to the Legal Aid Agency to deal with. The Department retains the authority, however, to manage a complaints process directly in the most serious cases.

## Annex – Compliance with government-wide corporate guidance and instructions

The Legal Aid Agency shall comply with the rules and instructions contained in the following documents:

- Appropriate sections of Corporate Governance in Central Government Departments: Code of Good Practice [www.hm-treasury.gov.uk/d/corporate\\_governance\\_good\\_practice\\_july2011.pdf](http://www.hm-treasury.gov.uk/d/corporate_governance_good_practice_july2011.pdf) and 'Guidance' published alongside the Code
- Managing Public Money (MPM).
- Government Internal Audit Standards, [www.hm-treasury.gov.uk/psr\\_governance\\_gia\\_guidance.htm](http://www.hm-treasury.gov.uk/psr_governance_gia_guidance.htm)
- Government Financial Reporting Manual (FRoM), [www.hm-treasury.gov.uk/frem\\_index.htm](http://www.hm-treasury.gov.uk/frem_index.htm)
- Fees and Charges Guide, Chapter 6 of MPM
- Departmental Banking: A Manual for Government Departments, annex 5.7 of MPM
- Relevant Dear Accounting Officer letters
- Regularity, Propriety and Value for Money, [www.hm-treasury.gov.uk/psr\\_governance\\_valueformoney.htm](http://www.hm-treasury.gov.uk/psr_governance_valueformoney.htm)
- Consolidation Officer Memorandum, and relevant DCO letters
- Relevant Freedom of Information Act, guidance and instructions (Ministry of Justice)
- Other relevant guidance and instructions issued by Her Majesty's Treasury in respect of Whole of Government Accounts
- Other relevant instruction and guidance issued by the central Departments
- Specific instructions and guidance issued by the Department
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to the Legal Aid Agency.

The Legal Aid Agency shall refer to the following documents for general guidance:

- Management of Risk: The Orange Book – Principles and Concepts: [www.hm-treasury.gov.uk/d/orange\\_book.pdf](http://www.hm-treasury.gov.uk/d/orange_book.pdf)
- Managing the Risk of Fraud: Tackling Internal Fraud – [www.hm-treasury.gov.uk/...fraud\\_guide\\_for\\_managers.pdf](http://www.hm-treasury.gov.uk/...fraud_guide_for_managers.pdf)
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration – [www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration](http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples/principles-of-good-administration).

In addition, the Legal Aid Agency will comply with the Department's internal policy in the following areas:

- Finance Policy
- HR
- Procurement
- Risk Management





